

Message Text

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TO SECSTATE WASHDC IMMEDIATE 6156

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C O N F I D E N T I A L SECTION 01 OF 02 GENEVA 02562

FOR SCHWEBEL

E.O. 11652: GDS

TAGS: UN, PFOR, PINS

SUBJECT: AD HOC COMMITTEE ON TAKING OF HOSTAGES

REF: GENEVA 2360

SUMMARY: UNDER PRESSURE FROM WEOS AND MODERATE NON-
ALIGNED, POSSIBILITY FOR AGREEMENT ON HOSTAGES CONVENTION
EXISTS. PACKAGE WOULD EXCLUDE ACTS OF HOSTAGE TAKING
COVERED BY GENEVA CONVENTIONS AND PROTOCOLS BUT COVER ALL
OTHERS. MOST, IF NOT ALL, OTHER WEOS PREPARED ACCEPT
SUCH A PACKAGE AND FRG PARTICULARLY ANXIOUS DO SO. END
SUMMARY.

1. AS RESULT HEAVY WEO PRESSURE IN DEBATES AND CORRIDORS
AND BEHIND THE SCENES EFFORTS OF SOME NON-ALIGNED (PARTI-
CULARLY YUGOSLAVIA), NO MEMBERS OF COMMITTEE SEEM WILLING
TO TAKE ONUS FOR FAILURE BASED ON DESIRE PROVIDE LICENSE
FOR SOME HOSTAGE TAKING.

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2. NON-ALIGNED HAVE NOW FORMALLY INDICATED WILLINGNESS
ACCEPT MEXICAN PROPOSAL OF LAST YEAR WHICH EXCLUDES FROM
SCOPE OF CONVENTION ACTS COVERED BY RULES OF INTERNATIONAL
LAW APPLICABLE TO ARMED CONFLICTS "INCLUDING CONFLICTS IN
WHICH PEOPLES ARE FIGHTING AGAINST COLONIAL DOMINATION AND
FOREIGN OCCUPATION...IN ACCORDANCE WITH THE CHARTER"

LANGUAGE TAKEN VERBATUM FROM ARTICLE 1, PARA 4, GENEVA
PROTOCOL I. THIS IS APPROACH RADICALS REJECTED LAST YEAR.

3. IN SMALL KEY NEGOTIATING GROUP, WE AND UK CONTINUING
EFFORT TO DRIVE THEM TO ACCEPT CURRENT FRG DRAFT OR AT LEAST
PREEMPTION BY GENEVA PACKAGE ONLY WITH RELATION TO STATES
PARTIES TO GENEVA CONVENTIONS AND PROTOCOLS. LED BY
MEXICO AND ALGERIA, THEY REFUSING ACCEPT THIS FOR MIX OF
REASONS, SOME STATED SUCH AS: (A) GENEVA CONVENTIONS
HAVE BEEN VERY WIDELY RATIFIED SO NO REASON TO FEAR
PROTOCOLS (PARTICULARLY PROTOCOL I) WILL NOT BE; (B) THEIR
CONCERN THAT SOME WEO STATES WILL DECIDE NOT RATIFY PRO-
TOCOLS IN ORDER TO ENSURE HOSTAGES CONVENTION APPLIES.
UNSTATED REASONS ARE DESIRE ON PART OF SOME (ALGERIA,
LIBYA) TO AVOID HAVING HOSTAGES CONVENTION IF THEY CAN
DO SO WITHOUT APPEARING CONDONE HOSTAGE TAKING.

4. ALL WEO MEMBERS OF COMMITTEE EXCEPT FRANCE INDICATE
CURRENT ABILITY ACCEPT PACKAGE OF THIS NATURE OR EXPECTA-
TION AUTHORITY DO SO BY FEBRUARY 21 (CANADA, NETHERLANDS,
UNITED KINGDOM IN LATTER CATEGORY). FRG, JAPAN, SWEDEN,
NETHERLANDS ANXIOUS ACCEPT PACKAGE AS GOOD ONE; CANADA,
UK LESS POSITIVE BUT REGARD IT AS BEST OBTAINABLE AND
SIGNIFICANTLY BETTER THAN NOTHING. FRANCE HAS SERIES OF
PARTICULAR POSITIONS AND PROVISIONS WHICH IT ADVOCATING
ON VARIOUS ASPECTS OF CONVENTION, SOME OF WHICH VERY
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TOUGH, SOME VERY PERMISSIVE AND FRENCH DELEGATION UNABLE
INDICATE WHAT GOF MIGHT DO ON SUCH A PACKAGE. FRG
PLANNING HIGH LEVEL DEMARCHE WITH QUAI TO OBTAIN MORE
COOPERATION FROM FRENCH.

5. REASONS BEING URGED BY WEOS WHO PREPARED ACCEPT CON-
VENTION ARE AS FOLLOWS: (A) PACKAGE WILL COVER CURRENTLY
MOST COMMON PROBLEMS -- JAPANESE AND GERMAN RED ARMY AND
LATIN AMERICAN INCIDENTS -- AND THESE ARE MOST LIKELY
FUTURE PROBLEM AREAS SO FOR THIS REASON ALONE, CONVENTION
WORTHWHILE; (B) SINCE GENEVA CONVENTIONS AND PROTOCOLS
APPLY TO TERRITORY OF STATES ENGAGED IN THE CONFLICT AND
OCCUPIED TERRITORY, ACTS COMMITTED IN AREA REMOVED FROM
AREA OF CONFLICT WILL BE COVERED BY HOSTAGES CONVENTION
(THEY NOTE THIS IN EFFECT VERY SIMILAR TO SCOPE OF 1972
U.S. DRAFT TERRORISM CONVENTION); (C) SUCCESSFUL CONVEN-
TION WILL BE FEATHER IN UN CAP IN DEVELOPED COUNTRIES;
(D) MODERATE NON-ALIGNED HAVE DRIVEN RADICALS TO A
REASONABLE POSITION AND SHOULD NOT BE LEFT HOLDING BAG;
(E) WE HAVE PARTICULARLY GOOD ATMOSPHERE AT MOMENT AND
IF WE DO NOT CLOSE A DEAL NOW WE WILL NOT GET ANOTHER
CHANCE TO DO SO IN NEAR FUTURE.

6. DELEGATION FINDS NO COMPELLING REASONS INTRINSIC TO THE CONVENTION FOR NOT ACCEPTING PACKAGE. IF FRENCH DO NOT BLOW EXERCISE UP FOR REASONS BEST KNOWN TO THEM, US MAY BE HARD PRESSED EXPLAIN TO FRG AND JAPAN IN PARTICULAR WHY WE BLOCKED AGREEMENT.

7. THERE ARE, OF COURSE, OTHER OUTSTANDING PROBLEMS THAT REMAIN BE SOLVED EVEN IF PACKAGE DESCRIBED PARA 2 ACCEPTED. WE AND REST OF WEOS BELIEVE THE OTHER PROBLEMS CAN BE SOLVED IF WE SOLVE RELATIONSHIP BETWEEN HOSTAGES CONVENTION AND GENEVA CONVENTIONS AND PROTOCOLS.

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C O N F I D E N T I A L SECTION 02 OF 02 GENEVA 02562

FOR SCHWEBEL

8. OTHER PROBLEMS ARE (A) STATE ACTION: MAJORITY OF NON-ALIGNED RECOGNIZE THAT CONVENTION RELATES TO INDIVIDUAL RESPONSIBILITY FOR THE ACT AND WILL ACCEPT LANGUAGE WHICH MAKES IT CLEAR THAT ALL WHO TAKE HOSTAGES ARE COVERED; (B) ASYLUM CLAUSE BEING INSISTED UPON BY LATINS LED BY MEXICO: SEEMS LIKELY THEY WILL ACCEPT REPETITION RELATIVELY HARMLESS PROTECTION OF DIPLOMATS FORMULA (ARTICLE 12, SAID CONVENTION) OR TEXT WHICH MAKES IT CLEAR ASYLUM RELATES TO EXTRADITION ISSUE ONLY AND NOT TO OBLIGATION TO SUBMIT TO COMPETENT AUTHORITIES FOR PROSECUTION; (C) NON-ALIGNED DESIRE OBTAIN LANGUAGE DEALING WITH USE OF FORCE TO FREE HOSTAGES: BELIEVE THIS CAN BE HANDLED BY SAVINGS CLAUSE LANGUAGE TO EFFECT NOTHING IN THIS CONVENTION EXPANDS OR CONTRACTS CHARTER PROVISIONS ON USE

OF FORCE.

9. DELEGATION RECOMMENDS WE BE AUTHORIZED ACCEPT PACKAGE DESCRIBED PARA 2 PROVISIONALLY WITHIN SMALL NEGOTIATING GROUP, ON CONDITION OTHER PROBLEMS SOLVED AND AGREED COMPROMISE WILL BE FORWARDED TO UNGA.

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10. TIMING OF SITUATION (FEW DAYS LEFT IN SESSION AND OTHER OUTSTANDING PROBLEMS THAT MAY TAKE SOME TIME) SUCH THAT WE NEED DEPARTMENT'S RESPONSE FEBRUARY 21 OR AT LATEST FEBRUARY 22 IF WE TO OBTAIN COMPLETED PACKAGE TO RECOMMEND TO UNGA, THUS HOPEFULLY TRANSFERRING AT LEAST SOME OF CURRENT MOMENTUM TO UNGA. VANDEN HEUVEL

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